

SENATE BILL 1386  
By Burks

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 7, Part 1, relative to the rights of a defendant upon arrest.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 7, Part 1, is amended by adding the following as a new section:

40-7-122.

(a) Immediately after arresting a person and advising such person of the person's constitutional right to counsel and to remain silent, the law enforcement officer shall request that the person sign a form stating that the person has been advised of the right to counsel and the right to remain silent and that the person understands these rights. Upon the arrested person signing and dating the form, the arresting officer shall sign it and write on the form the time the person was so advised and signed the form.

(b) If the arrested person refuses to sign the form, the arresting officer shall sign it and write on it the date and time the person was advised of these rights and that the person refused to sign the form after being requested to do so.

(c) The officer shall file the completed form in the person's arrest file with other documents concerning the arrest.

(d) If the form required by this section signifying that an arrested person has been advised of and understands such person's rights has been properly signed and dated by the officer and the arrested person, a rebuttable presumption is created that such arrested person was advised of all applicable constitutional rights at the time of arrest and that such person understands them. If such form is properly authenticated, it shall be admissible in evidence for all purposes for which it is relevant and probative.

(e) The POST commission shall devise a uniform form for officers to use pursuant to this section and shall print and distribute such form to all law enforcement agencies with the power to effectuate arrests in this state. Such form shall be devised, printed and distributed by October 1, 2003.

SECTION 2. For the purpose of devising, printing and distributing the form required by this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes it shall take effect on October 1, 2003.